



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Robert Graham, Chairman  
Arizona Republican Party  
3501 North 24th Street  
Phoenix, AZ 85016

**MAR 14 2016**

RE: MUR 6912

Dear Mr. Graham:

On January 27, 2015, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On March 10, 2016, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe you violated the Act or Commission regulations with respect to the allegations in this matter. Accordingly, the Commission closed its file in this matter on March 10, 2016.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Daniel A. Petalas  
Acting General Counsel

A handwritten signature in black ink, appearing to read "Daniel A. Petalas", is written over the typed name and title.

BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Arizona Republican Party  
and Jonathan Lines as treasurer  
Robert Graham, Chairman

MUR 6912

**I. INTRODUCTION**

This matter was generated by a Complaint filed by Ardith Hildebrant ("Complainant") on January 20, 2015, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by the Arizona Republican Party and Jonathan Lines in his official capacity as treasurer (collectively the "Committee"), and by Committee chairman Robert Graham. It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

**II. FACTUAL AND LEGAL ANALYSIS**

The Complainant states that she conducted a "preliminary review" of the Committee's 2013 and 2014 financial disclosure reports.<sup>1</sup> Compl. at 1. As a result of this review, the Complainant discovered several areas of concern. *Id.* at 1. First, she maintains that an "extraordinary" number of transfers occurred between the Committee's federal and nonfederal accounts during 2013 and 2014. *Id.*, see also *id.*, Attach. A (described as Committee's "Schedule of Transfers Between Nonfederal and Federal Account"). The Complainant also alleges that Graham, who was elected to be the Committee's Chair in January 2013, had been a defendant in an action brought by California's Fair Political Practices Commission ("FPPC")

<sup>1</sup> In its Response, the Committee observes that the Complainant had been defeated for the post of Committee treasurer by Jonathan Lines, in an election held shortly after she filed the Complaint. Resp. at 1.

1 against “Graham’s organization,” Americans for Responsible Leadership (“ARL”). *Id.* at 2.<sup>2</sup>

2 According to the Complainant, Graham was ordered to pay a portion of the civil penalty. *Id.*

3 The Complainant contends that the Committee paid “unbelievably high” and “exorbitant”  
4 merchant fees to BMO-Harris Bank (“BMO”) and reported numerous disbursements to BMO  
5 that lacked accompanying memo entries. *Id.* at 3; *see also id.*, Attach. C, Schedule of Merchant  
6 Fees to BMO (mostly occurring between July 2014 and September 2014 and totaling  
7 \$41,277.18) and Attach. D, Disbursements to BMO with no Descriptions (occurring between  
8 February 1, 2013 and March 1, 2014 and totaling \$83,329.57).<sup>3</sup> Finally, the Complainant asserts  
9 that the Committee has run “negative bank balances for the last two months” due to Graham’s  
10 apparent “failure to record a deposit.” *Id.* at 3, *see also id.*, Attach. E (a summary of the  
11 Committee’s 2014 Post-General Report discloses a negative cash on hand of \$185,273 at the  
12 beginning of the reporting period, and a negative cash on hand of \$576,425 at the close of the  
13 reporting period).

14 The Committee’s Response asserts that the transfers between its nonfederal account and  
15 federal account, described in the Complaint as “extraordinary” in number, were in fact “typical”  
16 transfers from its nonfederal account to pay the nonfederal share of allocated expenses.  
17 Committee Resp. at 1. According to the Response, at least 15 percent of expenses were allocated  
18 to the federal account, as there were no Presidential or Senate candidates on the ballot. *Id.* As

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<sup>2</sup> ARL, an Arizona non-profit organization, made an anonymous \$11 million contribution to a California campaign committee, but later acknowledged that it was an intermediary, not the true source of the funds. *Id.*; *see also id.*, Attach. B (Stipulation for Entry of Judgment, *FPPC v. ARL and Center to Protect Patient Rights*, dated Oct. 24, 2013).

<sup>3</sup> The Committee’s filings during 2013 and 2014 did not appear to contain all of the transactions listed in Attachments A, C, and D to the Complaint.

1 for the case brought by FPPC against ARL, the Committee asserts that there is no connection  
2 between ARL and itself, except that Graham is a “former board member of ARL.” *Id.* at 2.

3 In response to the Complainant’s allegations concerning BMO Harris, the Committee  
4 explains that some of its employees use credit cards issued by “our bank, in this case BMO  
5 Harris” and that the same bank also provided some of the Committee’s merchant credit card  
6 processing services. *Id.* According to the Committee, its reports identify this activity as  
7 “admin,” with “merchant fees” listed as the purpose, and that payments to BMO Harris were for  
8 “admin” and “merchant fees.”<sup>4</sup> Finally, the Committee does not dispute that its 2014 Post-  
9 General Report disclosed a negative cash on hand ending balance, but it states that it filed an  
10 amended 2014 Post-General Report<sup>5</sup> on January 15, 2015, which “accurately reflects incoming  
11 transfers from affiliated committees.” *Id.*<sup>6</sup>

12 Financial disclosure reports filed by party committees must disclose the amount of cash  
13 on hand at the beginning of the reporting period, the total amount of all receipts for the reporting  
14 period and calendar year, and the total amount of all disbursements for the reporting period and  
15 the calendar year. 52 U.S.C. § 30104(b)(1), (2) and (4). Disbursements that are itemized must  
16 include a brief statement or description of why the disbursements were made. 11 C.F.R.  
17 § 104.3(b)(3)(i)(A).

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<sup>4</sup> The Committee states that it will confer with counsel as to whether it should file an amendment to clarify which of the disbursements for administrative costs were “merchant fees” and which were not. *Id.*

<sup>5</sup> See also Committee’s earlier report, its 2014 Pre-General, which disclosed a negative ending cash on hand balance of \$185,273.39. The Report was amended on Dec. 17, 2014, to disclose a positive ending cash balance of \$28,599.49.

<sup>6</sup> The Committee’s Response does not address the specific transfers and disbursements set forth in Attachments A, C and D to the Complaint.

1 State, district and local party committees that engage in both federal and nonfederal  
2 elections may choose to set up both federal and nonfederal accounts. 11 C.F.R. § 102.5(a)(1)(i).  
3 Because administrative and other mixed federal/nonfederal expenses may not be paid from a  
4 nonfederal account, such committees may transfer funds from the nonfederal account to the  
5 federal account to cover the nonfederal share of allocable expenses. *Id.*, see also 11 C.F.R.  
6 §§ 106.7(c)(2), (f). Committees use a fixed percentage ratio, which sets forth the minimum  
7 federal share, for allocating administrative expenses. See 11 C.F.R. § 106.7(d)(2); see also  
8 Campaign Guide for Political Party Committees at 102. If neither a Presidential candidate nor a  
9 Senate candidate appears on the ballot, at least 15 percent of the expenses must be allocated to  
10 the federal account. See 11 C.F.R. §§ 106.7(d)(2)-(3). During each reporting period, a  
11 committee must also disclose transfers from the nonfederal account to the federal account to pay  
12 the allocated nonfederal portion of administrative and other allocable expenses, and it must  
13 disclose itemized payments for such expenses, showing the allocated federal and nonfederal  
14 shares. See Campaign Guide for Political Party Committees at 104-5.

15 As the Committee explains, it transferred funds from its nonfederal account to meet  
16 allocable expenses. It appears that the Committee used a 21 percent ratio on its February and  
17 March 2013 monthly reports and, then, permissibly switched to a 15 percent ratio for the  
18 remainder of the 2013-14 cycle.

19 The Committee's 2013 and 2014 financial disclosure reports reflect thirty disbursements  
20 to BMO-Harris with the description "Memo Entries: See Below" for a total of \$83,085 in  
21 disbursements. All of these disbursements include supporting memo entries, in apparent  
22 contradiction of Complainant's claim that the memo entries had been omitted. It appears that  
23 eleven disbursements to BMO-Harris, as disclosed on the Committee's 2014 Amended July

1 Monthly Report filed on December 16, 2014, lacked any description of purpose; however, the  
2 Committee subsequently amended its 2014 July Monthly Report on June 30, 2015 to provide  
3 statements of purpose for the disbursements.

4 Therefore, in light of the substantial compliance by the Committee coupled with its  
5 corrective action, the Commission exercises its prosecutorial discretion, pursuant to *Heckler*  
6 *v. Chaney*, 470 U.S. 821 (1985), and dismisses the allegation that the Arizona Republican Party  
7 and Jonathan Lines in his official capacity as treasurer violated 52 U.S.C. § 30104(b) and  
8 11 C.F.R. § 104.3(b)(3). In addition, the Commission finds no reason to believe that Robert  
9 Graham violated the Act or Commission regulations, as the record does not reflect a violation of  
10 the Act or Commission regulations by this respondent.